

1 NOLAN HEIMANN LLP  
2 Jordan Susman, Esq. (SBN 246116)  
3 Margo Arnold, Esq. (SBN 278288)  
4 16000 Ventura Boulevard, Suite 1200  
5 Encino, California 91436  
6 Telephone: (818) 574-5710  
E-mail: jsusman@nolanheimann.com  
marnold@nolanheimann.com

7  
8 Attorneys for Plaintiff  
9 Sideshow, Inc.

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  

**UNITED STATES DISTRICT COURT**  
**CENTRAL DISTRICT OF CALIFORNIA**

SIDE SHOW, INC., a California  
corporation,

Plaintiff,

vs.

LINDA IRISH dba LM TREASURES,  
an individual; MICHAEL IRISH dba  
LM TREASURES, an individual;  
IRISH HOLDINGS, INC. dba LM  
TREASURES, a California  
corporation; and JOHN DOES 1-5,

Defendants.

) Case No.:

) **COMPLAINT FOR DAMAGES AND  
INJUNCTIVE RELIEF**

) **1. FEDERAL TRADEMARK  
INFRINGEMENT PURSUANT TO  
15 U.S.C. § 1114**

) **2. FEDERAL UNFAIR  
COMPETITION UNDER 15 U.S.C.  
§ 1125(A)**

) **3. COMMON LAW TRADEMARK  
INFRINGEMENT)**

) **4. UNFAIR COMPETITION, CAL.  
BUS. & PROF. CODE § 17200**

) **DEMAND FOR JURY TRIAL**

1 Plaintiff Sideshow, Inc., by and through its undersigned attorneys, alleges upon  
 2 knowledge as to itself and its own acts and alleges upon information and belief as to all  
 3 other matters, brings this Complaint.

4 **PARTIES**

5 1. Plaintiff Sideshow, Inc. (“Sideshow”), is a California corporation organized  
 6 and existing under the laws of California, with its principal place of business in Ventura  
 7 County, California.

8 2. Defendant Linda Irish is an individual doing business as LM Treasures who,  
 9 on information and belief, resides in San Bernadino County, California.

10 3. Defendant Michael Irish is an individual doing business as LM Treasures  
 11 who, on information and belief, resides in San Bernadino County, California.

12 4. Defendant Irish Holdings, Inc. is a California corporation doing business as  
 13 LM Treasures that has a principal place of business in San Bernadino County, California.

14 5. Sideshow is unaware of the true names and capacities of the Defendants  
 15 sued herein as Does 1 through 5, and therefore sues these Defendants by such fictitious  
 16 names. Sideshow will amend this Complaint to allege their names and capacities when  
 17 ascertained. Each such fictitiously named Defendant is responsible in some manner for  
 18 the damages alleged herein and Sideshow’s losses and damages were proximately caused  
 19 by such conduct.

20 6. At all times relevant herein, each of the Defendants was the agent,  
 21 representative, and/or employee of each of the remaining Defendants, and in doing the  
 22 things hereinafter alleged, was acting within the course and scope of such relationship  
 23 and each of the Defendants approved and ratified the conduct of each of the remaining  
 24 Defendants.

25 **JURISDICTION AND VENUE**

26 7. This is an action for federal trademark and trade dress infringement and  
 27 unfair competition arising under the Lanham Act, 15 U.S.C. §§ 1051, *et seq.* and  
 28 common law trademark infringement in violation of California state law.

1       8. This court has original jurisdiction over the federal trademark and trade  
2 dress infringement and unfair competition claims pursuant to 15 U.S.C. §§ 1121 and  
3 1125 and 28 U.S.C. §§ 1331 and 1338.

4       9. Supplemental jurisdiction is proper for the state law claims under 28 U.S.C.  
5 § 1337(a) because the claims are so related to the federal claims that they form part of the  
6 same case or controversy under Article III of the United States Constitution.

7       10. Venue is proper in the United States District Court for the Central District of  
8 California under 28 U.S.C. § 1331(b) because: (1) Defendants' tortious conduct has  
9 occurred in this district; (2) Defendants conduct regular and systematic business in this  
10 district; and/or (3) a substantial part of the events or omissions giving rise to the claim  
11 occurred in this district.

### **STATEMENT OF FACTS**

#### **Sideshow's Business and Trademark**

12       11. Sideshow is an American specialty manufacturer of movie, film, television  
13 and collectible action figures, life-size statues, and high-end pieces.

14       12. Sideshows' products sell for thousands of dollars and are currently sold in  
15 specialty, trend, collectible and comic shops both in the US and internationally.

16       13. Sideshow has operated using the trademarks "Sideshow" and "Sideshow  
17 Collectibles" since November 30, 1998, and registered the trademarks with the United  
18 States Patent and Trademark Office in April 2017 (Serial No. 87188578) and April 2007  
19 (Serial No. 78445670), respectively, for, among other things, busts, statuettes, and  
20 collectible toy figures (the "Sideshow Marks").

21       14. Sideshow's action figures, life-size statues, and high-end pieces are known  
22 for their superior quality and craftsmanship. The statue molds are hand-sculpted, and  
23 many products include hand-painted finishing details.

#### **Defendants' Infringing Activities**

24       15. Defendants purport to be the largest distributor of life size statues in the  
25 United States.

1       16. On Defendants' website, lmtreatures.com, they claim "All our items are  
2 produced from a durable high quality polyester resin, hand laminated and fully  
3 reinforced with **FIBERGLASS**. These are NOT to be confused with the thousands of  
4 low cost, unenforced highly brittle **POLY RESIN** castings coming out of China."  
5 (emphasis in original).

6       17. Upon information and belief, Defendants also operates an illegal side  
7 business where they purchase counterfeit versions of Sideshow's busts, statutes, and  
8 figurines through Chinese manufacturers (the "Counterfeit Products") and sell the  
9 Counterfeit Products on their website lmtreatures.jp.

10      18. Defendants use the Sideshow Marks to identify the Counterfeit Products.  
11 **See Exhibits 1-11.**

12      19. To illustrate the Counterfeit Products, Defendants use Sideshow's product  
13 photos. **See Exhibits 1-11.**

14      20. Sideshow's product photos also each depict the Sideshow Marks.

15      21. Defendants' use of the Sideshow Marks and of Sideshow's product photos  
16 was without permission or consent.

17      22. On information and belief, Defendants are using the Sideshow Marks to  
18 identify the Counterfeit Products in order to exploit and trade on the longstanding  
19 goodwill, reputation, and success of Sideshow's products and to create a likelihood of  
20 consumer confusion in the marketplace.

21      23. On information and belief, Defendants are trying to confuse the consumer  
22 into believing that they are a licensed Sideshow product distributor and into purchasing  
23 the Counterfeit Products from Defendants rather than the authentic products from  
24 Sideshow directly or from an authorized distributor.

25      24. Defendants have actual knowledge of the Sideshow Marks and know that  
26 they are used by Sideshow to identify busts, statutes, and figurines.

27      25. Accordingly, Defendants' trademark infringement is willful.  
28

**FIRST CLAIM FOR RELIEF****(Federal Trademark Infringement Pursuant to 15 U.S.C. § 1114)**

26. Sideshow refers to the allegations contained in the preceding Paragraphs  
and incorporates them by reference as though fully set forth herein.

27. Sideshow exclusively owns the federally registered Sideshow Marks  
identified in Paragraph 13, which are valid and enforceable.

28. Sideshow has used the Sideshow Marks in interstate commerce in  
connection with busts, statutes, and figurines.

29. Without authorization or permission, Defendants have used in commerce  
and continue to use in commerce the Sideshow Marks.

30. Defendants' unauthorized use of the Sideshow Marks has caused, and will  
continue to cause, confusion, mistake, or deception in the relevant consumer market.

31. Defendants' unauthorized use of the Sideshow Marks constitutes  
infringement of a federally registered trademark in violation of 15 U.S.C. § 1114.

32. Defendants' acts of infringement constitute willful and intentional  
infringement of the Sideshow Marks, and Defendants did so with the intent to trade upon  
Sideshow's reputation and goodwill by causing confusion and mistake among customers  
and the public and to deceive the public into believing that the Counterfeit Products are  
associated with, sponsored by, approved by, and/or originating from Sideshow when they  
do not.

33. Defendants had actual knowledge of Sideshow's ownership and prior use of  
the Sideshow Marks and have willfully violated 15 U.S.C. § 1114.

34. Defendants' infringing acts have caused and will continue to cause  
Sideshow to suffer irreparable injury to its reputation and goodwill. Sideshow does not  
have an adequate remedy at law to recover for this harm, and it is therefore entitled to  
injunctive relief.

**SECOND CLAIM FOR RELIEF****(Federal Unfair Competition Under 15 U.S.C. § 1125(a))**

35. Sideshow refers to the allegations contained in the preceding Paragraphs and incorporates them by reference as though fully set forth herein.

36. Sideshow has been using the Sideshow Marks on and in connection with busts, statutes, and figurines in interstate commerce since 1998 and has developed substantial goodwill in these marks in the entire United States as well as internationally, prior to Defendant's adoption and use of the Sideshow Marks in commerce.

37. Defendants' use of the Sideshow Marks in interstate commerce in competition against Sideshow is likely to cause mistake, and/or to deceive as to an affiliation, connection, or association of Defendants with Sideshow, and/or as to the origin, sponsorship, and/or approval by Sideshow of Defendants' goods or commercial activities related to Defendants' Counterfeit Products.

38. Defendants are therefore engaged in unfair competition and false designation of origin in violation of 15 U.S.C. § 1125(a) and has caused Sideshow irreparable harm by the infringement and Sideshow has no adequate remedy at law.

## **THIRD CLAIM FOR RELIEF**

### **(Common Law Trademark Infringement)**

39. Sideshow refers to the allegations contained in the preceding Paragraphs and incorporates them by reference as though fully set forth herein.

40. Sideshow owns common law trademark rights in the Sideshow Marks and all such rights owned by Sideshow are superior to any rights that the Defendants may claim to have.

41. Defendants' unauthorized use of the Sideshow Marks, in connection with the sale of busts, statutes, and figurines is likely to cause confusion as to the source or sponsorship of these goods, and likely to lead the public to believe that Sideshow is affiliated with or sponsors or endorses Defendants and/or Defendants' Counterfeit Products, and is likely to mislead persons in the ordinary course of purchasing Defendants' Counterfeit Products, and induce them to believe they are purchasing

1 genuine goods of Sideshow, thereby injuring the reputation and goodwill and unjustly  
2 diverting from Sideshow to Defendants the benefits arising therefrom.

3       42. Defendants' acts of trademark infringement are continuing to be committed  
4 willfully, knowingly, intentionally, and in bad faith.

5       43. Defendants' acts of trademark infringement will continue to cause  
6 Sideshow irreparable damage, loss, and injury for which Sideshow has no adequate  
7 remedy at law.

## **FORTH CLAIM FOR RELIEF**

**(Unfair Competition, Cal. Bus. & Prof. Code § 17200)**

10        44. Sideshow refers to the allegations contained in the preceding Paragraphs  
11 and incorporates them by reference as though fully set forth herein.

12       45. As set forth above, Defendants have engaged in unlawful business acts or  
13 practices, including trademark infringement, in an effort to gain unfair competitive  
14 advantage by trading on Sideshow's efforts and reputation.

15       46. Defendants' acts and conduct constitute unlawful competition as defined by  
16 California Bus. & Prof. Code §§ 17200 *et seq.*

17       47. In light of Defendants' conduct, it would be inequitable to allow  
18 Defendants to retain the benefit of any funds obtained through their unauthorized and  
19 unlawful use of the Sideshow Marks

20       48. As a result of Defendants' unfair competition, Sideshow has suffered  
21 damages through lost sales of collectible products, lost profits, as well as the continuing  
22 damage to Sideshow's business, goodwill, and reputation. Sideshow has suffered and  
23 continues to suffer immediate and irreparable injury for which there is no adequate  
24 remedy at law, and unless Defendants are enjoined from such unfair competition,  
25 Sideshow will continue to suffer irreparable injury. Sideshow is entitled to injunctive  
26 relief.

## **PRAAYER FOR RELIEF**

WHEREFORE, Sideshow prays for an award against Defendants as follows:

1. That an accounting be made for all profits, income, receipts or other benefit derived by Defendants from the unlawful reproduction, copying, display, promotion, distribution, or sale of products and services, or other media, either now known or hereafter devised, that improperly or unlawfully infringes upon Sideshow's trademarks;

2. For actual damages and disgorgement of all profits derived by Defendants from their acts of trademark infringement, and for all damages suffered by it by reasons of Defendants' acts,

### 3. For treble damages;

4. For the Court to award Sideshow its reasonable costs, expenses and attorney's fees pursuant to the Lanham Act, 15 U.S.C. §§ 1051, *et seq.*;

5. For preliminary and permanent injunctions restraining and enjoining Defendants, and all persons acting in concert with them, from copying the Sideshow Mark or further distributing, displaying, or selling infringing products based thereon;

6. For preliminary and permanent injunctions restraining and enjoining Defendants, and all persons acting in concert with them, from copying the Sideshow Mark or further distributing, displaying, or selling infringing products based thereon;

7. For preliminary and permanent injunctions requiring that Defendants to provide Sideshow over all Counterfeit Products in their possession, custody, or control.

8. For pre-judgment and post-judgment interest according to proof and to the maximum extent allowed by law;

9. For such other and further relief as the Court may deem just and proper.

Dated: November 1, 2024

## NOLAN HEIMANN, LLP

By:

3

Jordan Susman  
Sideshow, Inc.

1                           **DEMAND FOR JURY TRIAL**

2                           Sideshow hereby demands a trial by jury on all issues so triable in accordance  
3 with Federal Rule of Civil Procedure 38(b).

4

5                           Dated:         November 1, 2024

NOLAN HEIMANN, LLP

6

7                           By: 

Jordan Susman  
Sideshow, Inc.

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28